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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the third periodic report of Uruguay

Addendum

Information received from Uruguay on follow-up to the concluding observations*

[Date received: 16 June 2015]

Follow-up to paragraph 9 of the concluding observations: allegations of torture and ill-treatment in prisons

1. Complaints of ill-treatment in prisons are dealt with in accordance with Police Organization Acts Nos. 13963 and 14050, Act No. 18315 on police procedure and/or Decree No. 500/91 on administrative procedures and articles 115 to 122 of Act No. 18362 establishing the Directorate for Internal Affairs.

2. Any complaints received of ill-treatment of persons deprived of their liberty are passed on to the Directorate for Internal Affairs of the Ministry of the Interior, which investigates each of them and submits the corresponding opinion to the Minister, who decides on the applicable penalties where liability has been established or initiates an administrative inquiry. However, the competent court is informed whenever there is a presumption of criminal conduct.

3. Persons deprived of their liberty can file complaints of ill-treatment through a number of different channels:

(a) Directly with the directors of the detention facilities in question;

(b) Through their family members with the Directorate for Internal Affairs of the Ministry of the Interior;

(c) Through the Quality Management Service telephone helpline (0800-5000), which enables calls to be made anonymously;

(d) Through the competent court.

4. The Technical Legal Department has obtained a review of 32 police and administrative investigations into the requisite cases. The investigations focused in particular on the allegations made.

* The present document is being issued without formal editing.

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5. In some cases, the Parliamentary Commissioner reported prison officials to the judicial authorities where signs of torture had been found. Of the seven complaints submitted, four were shelved and three remain under investigation, as shown in the annex.

Follow-up to paragraphs 12 and 13 of the concluding observations: juvenile justice and juvenile facilities

6. The Adolescent Criminal Responsibility System (SIRPA) has the task of ensuring enforcement of the penalties imposed by the courts on adolescent offenders, recognizing them as legal subjects and promoting a socio-educational process conducive to their integration in a socially responsible form. The System, created by Act No. 18711 of 25 June 2011, is still being developed and wields the powers delegated to it by the Uruguayan Institute for Children and Adolescents (INAU) with respect to the application of the social and educational measures provided for in article 77 et seq. of the Code on Children and Adolescents.

7. All complaints of ill-treatment received by the Adolescent Criminal Responsibility System from family members, officials, the detainees themselves or ex officio have been investigated under the powers established by existing regulations. Where there has been sufficient prima facie evidence of ill-treatment, the Delegate Committee has ordered the necessary precautionary measures (preventive transfer of the adolescent from the centre where the acts allegedly occurred; preventive transfer of the officials allegedly involved in the acts and preventive removal of the official from his or her post) and the submission of the complaint to the courts. The regular visits to places of detention carried out by members of the judiciary make it possible to monitor the enforcement of precautionary measures.

8. Article 100 of the Code on Children and Adolescents provides for judicial oversight of the enforcement of precautionary custodial measures and social and educational measures ordered in final judgements. This essentially involves on-site visits every three months and the possibility for the adolescent to request a court hearing, a request that is granted immediately, with the consequent transfer of the minor. Likewise, public defenders, who in fact take on more than 90 per cent of defences, are required by law to interview the adolescents in these facilities.

9. Lastly, in 2014 the Supreme Court renewed the practice of visits to enforcement premises, for the inspection of living, health and dietary conditions and so on. During those visits, private meetings were held between the Supreme Court justices and the adolescents, so that their versions of the facts could be heard.

10. With respect to complaints mechanisms, it should be noted that each adolescent who is admitted to a centre receives the code of rights and obligations. During periodic interviews with social workers, psychologists and lawyers, adolescents may raise complaints confidentially; they (as well as family members or anyone else) may also lodge a complaint with the legal department of the Adolescent Criminal Responsibility System.

11. With regard to administrative procedures, when a procedural irregularity occurs, the head or person in charge of the department orders an urgent procedure to identify the persons possibly responsible, accessories or witnesses and to prevent the loss of evidence. This procedure is carried out within 48 hours of the acts and is led by the head of the centre. In the event that the urgent procedure reveals irregularities that could give rise to an administrative inquiry, the inquiry will be undertaken by the Inquiries Office, which reports directly to the above-mentioned legal department, so as to remove the investigation from the sphere of influence of the persons involved and ensure the independence of the expert opinion and the inquiry.

12. The programmes being run by the Adolescent Criminal Responsibility System for adolescents in conflict with the law should also be highlighted:

- Entry, Study and Referral Programme, responsible for the Montevideo Temporary Admissions Centre, produces initial diagnostic reports and makes referrals to existing programmes and projects;
- Non-Custodial Social, Educational and Mediation Programme, responsible for the application of the measures provided for in articles 80 to 84 of the Code on Children and Adolescents;
- Custodial and Semi-custodial Socio-educational Programme, responsible for application of the measures provided for in articles 86 to 88 of the Code on Children and Adolescents;
- Curative Measures Programme, responsible for the application of the social and educational measures provided for in article 106 of the Code on Children and Adolescents and the development of a drug-use rehabilitation project;
- Social and Community Integration Programme (on release), responsible for the actions taken in order to achieve successful reintegration into society. Since its creation, more than 360 young people, with the commitment of civil society as a whole, have returned to the workforce. The cooperation of State-owned and private companies, social organizations and trade unions has made it possible to carry out this public policy, which is based on the comprehensive protection of adolescents.

13. Likewise, the Delegate Committee created three new programmes that began operating in the current year:

- An Education Programme, which focuses on training and certification in skills that make possible future employment and uninterrupted formal education;
- A Security Programme, which focuses on the external security of the facilities, inspections, transfers and crisis interventions;
- A Psychosocial Rights Protection Programme, which is responsible for expert supervision of the psychosocial aspects of work with adolescents entrusted to the Adolescent Criminal Responsibility System. It seeks to enhance the quality of expertise in the framework of restorative justice upheld by the comprehensive-protection paradigm.

14. As to overcrowding in detention facilities, a number of measures have been taken to tackle the issue. Under the provisions of articles 324 and 325 of Act No. 19149 on the statement of accounts for the financial year 2012 and of article 254 of Act No. 18834 on the statement of accounts for the financial year 2010, the legislature has allocated funds to the Adolescent Criminal Responsibility System to cover the wages and other costs of hiring staff to fill newly created posts and for infrastructure and equipment.

15. In 2014, a further 301 places were created, as a result of successful efforts to reduce overcrowding and detention

16. All the centres have a daily workplan which includes cultural workshops (non-formal education), primary and secondary educational activities, and physical education. The courses are conducted under an agreement with the vocational Universidad del Trabajo del Uruguay.

17. The Adolescent Criminal Responsibility System reform process also provides for strict compliance with the requirements concerning the separation of inmates on the basis of their age, gender and status before the law. The Admissions Centre for Female

Adolescents, the only such institution for female prisoners, has 29 inmates. The Challenge Centre houses adolescents between the ages of 13 and 15 and currently has a population of 29. The Entry, Study and Referral Centre (CIEDD) houses male adolescents over the age of 15 who are subject to precautionary measures and currently has a population of 99. Other centres supervise adolescents from the age of 15 onward who are subject to custodial or semi-custodial arrangements.

Annex

Shelved cases

Eighth Rota Criminal Court: Case file No. IUE 2-13677/2012, allegation against public officials Miguel Catelotti, Artigas Davila, Sergio Rigoli, Walter Fernández, Wister Palacios and Adrián López. Case file closed by decree 136 of 17 February 2014.

First Rota Canelones Court: Case file No. 167-451/2011, in Garcé García Alvaro-Complaint against the doctors practising at the Canelones No. 1 Detention Centre. Accusation of "failure to provide assistance". Case file closed by decree 3266 of 16 December 2013.

First Rota Durazno Court: Case file No. IUE 240-384/2013, allegation against public officials Víctor Clavero, Wister Camejo, Luzardo and Garro. Case file closed by decree 3326 of 10 December 2013.

First Rota Canelones Court: Case file No. IUE 167-115/2012, allegation against public officials Robert Paz, Olivera and Silvia. Case file closed on 31 July 2012.

Active cases

First Rota Canelones Court. Case file No. IUE 167-661/2011.

First Rota Rivera Court. Case file No. IUE 328-29/2007-3.

Fourth Rota Criminal Court. Case file No. IUE 103-221/2012.